SBCivil Writ Petition No.3236/2005

Santokh Singh
Vs.
State of Rajasthan & Ors.

Date of Order :: 9th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. H.S.Sidhu, for the petitioner.
Mr. B.L.Tiwari, Dy..Govt.Advocate.

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The petitioner, a lecturer in the subject of Chemistry, was served with a memorandum under Rule 17 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (hereinafter referred to as "the Act of 1958") with an allegation, that reads as under:-

> "आरोप संख्या-1
> यह है कि संतोखसिंह व्याख्याता (रसायन) रासीमावि, रायसिंहनगर (श्रीगंगानगर) ने अपने पद पर रहते हुए अधिकारों का अतिक्रमण किया तथा बाहय परीक्षक श्री अजीत कुमार गुप्ता पूर्व उपप्रधानाचार्य देशनोक के एक दिन में प्रायोगिक परीक्षा लेने पर 4 दिन की उपस्थिति प्रमाणित की तथा यात्रा विपत्र भी 4 दिन का प्रमाणित किया। यह है कि श्री संतोखसिंह व्याख्याता ने परीक्षाओं की उत्तरपुस्तिकाओं में लेखन के अंत में प्रधानाचार्य के स्थान पर स्वयं के हस्ताक्षर करके नियम विरूद्ध कार्य किया है। अत: उक्त श्री सिंह को पद का दुरूपयोग करने प्रधानाचार्य के अधिकारों का अतिक्रमण करने तथा कर्तव्यों एवं दायित्वों की अवहेलना करने के आरोपों से दोषारोपित किया जाता है।"

The petitioner after receiving the memorandum aforesaid by communication Anx,.2 dated 14.2.1997 made a request to the disciplinary authority to supply certain documents enabling him to submit an effective defence. Copies of the documents were not supplied to the petitioner, however, he was allowed to inspect the record demanded by him.

The disciplinary authority found the petitioner guilty for the misconduct charged and imposed a penalty of stoppage of two annual grade increments without cumulative effect under an order dated 18.6.1997. Being aggrieved by the same the petitioner preferred an appeal before the Secretary to the Government of Rajasthan, Department of Education, under Rule 23 of the Rules of 1958. The appellate authority by its order dated 15.3.2001 held that the petitioner did not act beyond the jurisdiction vested with him as on the day concerned Shri Gurumukh Singh, Principal of the school was absent and the petitioner was working as incharge, however, the appellate authority discussed the allegation levelled against the petitioner only to the extent of verification of attendance of the examiner concerned and his travelling certificate. The appellate authority nowhere discussed the issue with regard to putting signatures by the petitioner on answer sheets at place marked for Principal. The appellate authority reduced the penalty imposed by the disciplinary authority by

withholding only one annual grade increment without cumulative effect. It is pertinent to note that in memo of appeal the petitioner in quite unambiguous terms stated that he never put his signatures on the answer sheets at the place marked for Principal but signed the same as internal examiner only. Being aggrieved by the order passed by the appellate authority dated 15.3.2001 the petitioner preferred a review petition before His Excellency the Governor of Rajasthan but that too came to be rejected by an order dated 7.3.2005.

While giving challenge to the order passed by the appellate authority and reviewing authority, it is contended by counsel for the petitioner that the respondents without application of mind and without even perusing the answer sheets imposed a penalty upon the petitioner, though it was always asserted and reiterated by the petitioner that he never put his signatures on the answer sheets at the place marked for Principal but signed the same as internal examiner.

In reply to the writ petition it is stated in general by the respondents that sufficient opportunity was given to the petitioner to defend himself and, therefore, no error was committed by the disciplinary authority, appellate authority and the reviewing authority by imposing the penalty concerned.

Heard counsel for the parties.

From perusal of the memorandum dated 11.1.1997 it is apparent that the allegation against the petitioner is having two limbs, one is with regard to verification of the attendance and the travelling allowance report pertaining to the external examiner and second pertains to putting signatures on the answer sheets at the place marked for Principal. The appellate authority in the order dated 15.3.2001 in quite unambiguous terms held that the petitioner did not travelled beyond the jurisdiction vested with him as on the day concerned he was the incharge due to non availability of Shri Gurumukh Singh, the Principal of the school. Once the appellate authority held that the petitioner was incharge, therefore, even if it is assumed that the petitioner put his signatures on the answer sheets at the place where Principal was required to sign, it cannot be said that the petitioner acted unauthorisedly. The appellate authority once accepted the defence of the petitioner and found that no illegality was committed by the petitioner while verifying attendance and travelling report pertaining to external examiner, the petitioner cannot be held guilty for putting signatures on the answer sheets at the place where Principal was required to sign. It is also pertinent to note that the appellate authority as well as the reviewing authority nowhere discussed even this part of the

allegation in their orders. Be that as it may, once the petitioner has been found acting as incharge on the day concerned, it cannot be held that he committed any misconduct by putting signatures on the answer sheets at the place where Principal was required to sign.

While parting with the case I also consider it appropriate to note that while initiating disciplinary proceedings and holding a person guilty for misconduct the disciplinary authority should always see the intention of the delinquent employee. It is not desirable to hold disciplinary proceeding in each and every inadvertent minor administrative error. The patty bonafide errors must be dealt with at administrative level. Initiation of disciplinary proceedings in every patty matter of bonafide error as a matter of fact deviate the productivity of administrative force. Such type of errors if exists, does not warrant initiation of disciplinary proceedings as that cause not only unnecessary harassment of the employee but also create a sense of absolutely unwarranted fear in day to day working of an employee, that ultimately effects his efficiency adversely.

In the instant matter the petitioner was acting as an internal examiner. By putting his signatures on the answer sheets he was not going to

gain anything and it was also not a negligence effecting the employer adversely in any manner and there was also no chance of misusing the office of Principal.

In view of whatever discussed above, this petition for writ deserves acceptance. Accordingly, the same is allowed. The orders impugned dated 15.3.2001 passed by the appellate authority and dated 7.3.2005 passed by the reviewing authority are hereby quashed. The order passed by the disciplinary authority also stands quashed and the petitioner is declared exonerated from the allegation levelled under the memorandum dated 11.1.1997.

(GOVIND MATHUR),J.

kkm/ps.